

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GLORIA ANN CLAYTON,

Plaintiff,

Case No. 1:13-cv-886

v

HON. JANET T. NEFF

BANK OF AMERICA et al.,

Defendants.

OPINION AND ORDER

Plaintiff filed this action alleging fraud and other deficiencies in the foreclosure of real property by Defendants. Defendants Bank of America and Trott & Trott, P.C., each filed a Motion to Dismiss (Dkts 11, 13, respectively). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court grant Defendants' motions. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Dkt 41). Defendant Bank of America has filed a Response to the Objections (Dkt 42). Plaintiff has filed purported additional objections (Dkt 43).¹ In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

¹No such additional objections are permitted under the local court rules. *See* W.D. Mich. LCivR 72.3(b). The Court has nonetheless considered Plaintiff's additional filing.

As Defendant Bank of America observes in its Response, Plaintiff's objections provide no basis for modifying or rejecting the Report and Recommendation of the Magistrate Judge. Other than her general objection to the referral of this case to the Magistrate Judge, Plaintiff's combined, lengthy objections (Dkts 41, 43) point to no error in the analysis or conclusion of the Magistrate Judge. Plaintiff's challenge to the Magistrate Judge's authority to hear this case is without merit. Although, as Plaintiff asserts, magistrate judges cannot issue judgments without the parties' consent, 28 U.S.C. § 636(b)(1)(B) permits district judges to refer dispositive matters to magistrate judges to conduct hearings and issue proposed findings of fact and recommendations, as occurred in this case. In fact, Plaintiff acknowledges the Magistrate Judge's authority to make proposed findings of fact and recommendations, which are subject to *de novo* review by the district judge, upon a proper objection by any party (Pl. Obj., Dkt 41 at 5). Plaintiff's objection that the Magistrate Judge lacked authority to recommend a disposition of Defendants' motions is without merit.

Plaintiff further challenges the attorneys for Defendants, requesting that they produce evidence of their licenses to practice law, their oaths of office and their bonds; and produce admissible evidence of agency on behalf of their respective Defendants, in the form of a contract, letter of appointment or other evidence of agreement that the alleged attorneys represent their respective Defendants. These challenges lack any factual or legal support. The Magistrate Judge properly found Plaintiff's claim that Trott and Trott lacked standing to act on behalf of Bank of America frivolous in that Trott and Trott represented Bank of America as its legal counsel in this matter, a service which Trott and Trott is entitled, under Michigan law, to perform (R & R at 5).

The Magistrate Judge properly considered and ruled on Plaintiff's claims concerning the foreclosure. The reasoning and conclusions of the Magistrate Judge are sound. Accordingly, this

Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Therefore:

IT IS HEREBY ORDERED that the Objections (Dkts 41, 43) are DENIED and the Report and Recommendation (Dkt 38) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendant Bank of America's Motion to Dismiss (Dkt 11) is GRANTED.

IT IS FURTHER ORDERED that Defendant Trott & Trott, P.C.'s Motion to Dismiss (Dkt 13) is GRANTED.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of the decision would not be taken in good faith.

Dated: September 22, 2014

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge